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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,498	09/10/2003	Akihiko Ito	S004-5099.	3633

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ADAMS & WILKS
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EXAMINER

OSELE, MARK A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,498

Applicant(s)

ITO, AKIHIKO

Examiner

Mark A. Osele

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-14, 16-19, and 21- 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of MacIntyre, Mistyurik, Martinsen, and Huggins. On pages 1-5 and Fig. 5 of the instant disclosure, it is shown that the admitted prior art of a label printer comprises: a discharge frame having first and second discharge openings; a conveying roller as a first conveying unit for conveying the label web in a first direction; a label peeling member disposed along the first direction for peeling the labels from the backing strip toward a first discharge opening; a peeling roller as a second conveying unit that pulls the backing strip in a direction opposite to the first direction; a thermal print head; a platen roller brought into contact with the surface of the print head; a rotation drive unit rotating the platen roller; wherein the peeling roller contacts the conveying roller and rotates following rotation of the conveying roller creating a nip for the backing strip from which the labels have been peeled and conveying the backing strip toward the second discharge opening. The admitted prior art fails to show a slack preventing member.

MacIntyre shows a slack preventing plate, 36, contacting the front surface of the label strip between the conveying unit and the label peeling member. It would have

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been obvious to one of ordinary skill in the art at the time the invention was made to add a slack preventing member to the admitted prior art because MacIntyre shows that slack preventing plates are conventional in label peeling apparatuses. The references as combined fail to show a discharging frame integral with the slack preventing member.

Mistyurik et al. shows a hand held labeler wherein a pivoting frame, 23, with integral label contacting elements, 74, 76, 79, can be pivoted to allow replacement of the label web thereby limiting the need for manual threading of the web between components (column 6, line 62 to column 7, line 9; Fig. 13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a pivoting discharge frame to the apparatus of the references as combined above because Mistyurik et al. shows that this assemblage allows for easier loading of a label web.

Huggins teaches that a number of elements such as guide rollers, 57, 58, and print head, 69, can all be arranged on a pivoting frame. Martinsen teaches that a removable lid can comprise a first and second discharge opening. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the discharge openings and any other elements, including the slack preventing member, of the references as combined on the pivoting frame because Huggins and Martinsen teach that elements such as these are known to be included on pivoting and/or closing frames.

3. Claims 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of MacIntyre, Mistyurik et al., Martinsen, and Huggins

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as applied to claim 11 above, and further in view of Rieger. Rieger shows a label peeling mechanism wherein the slack preventing member, 107, is rod shaped and the peeling device, 100, is a plate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a rod shaped slack preventing member and/or a plate shaped peeling device in the apparatus of the references as combined because Rieger shows these to be functionally equivalent alternate expedients to a plate shaped slack preventing member and a peeling roller.

Response to Arguments

4. Applicant's arguments with respect to claims 11-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Osele whose telephone number is 571-272-1235. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'M. A. Osele', with a stylized, cursive script.

MARK A. OSELE
PRIMARY EXAMINER

June 26, 2005